



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 07/15/99

Agenda Item 2

TO: PLANNING COMMISSION

FROM: Arlynne J. Camire, Associate Planner

SUBJECT: Six-Month Review Of Use Permit Application No. 98-160-19 And Request To Modify Conditions Of Approval - Jung Lee For Hayward Music Studio (Applicant), Douglas B. Storm For Mission Properties (Owner) - A review for compliance to the conditions of approval for a 3,600-square-foot karaoke recording studio and adjoining bar (beer only) as a commercial amusement facility.

The property is located at 21995 Mission Boulevard in the Mission Plaza on the northwest corner of Mission and Sunset Boulevards in a Central City Zoning District-Commercial Subdistrict.

RECOMMENDATION:

It is recommended that the Planning Commission approve the continuance of the use subject to the attached findings and modified conditions of approval.

DECISION:

On January 14, 1999, the Planning Commission approved the subject use permit with conditions of approval that required review by the Planning Commission after 6 months of the approval date (Attachment B.) The conditions of approval also required that:

Two private security guards shall be employed and on-premise Friday and Saturday between the hours of 6:00 pm and closing. The security guards are to be to the satisfaction of the Hayward Police Department. In addition, the Hayward Police Department agrees to re-evaluate the requirement for two security guards after a period of six months.

The applicant, Jung Lee, appealed the decision of the Planning Commission to the City Council contending that the provision of two security guards would be a financial hardship. On February 9, 1999, the City Council upheld the conditions of approval and added a requirement for a video security system that included cameras in the larger studio rooms (Attachment C.)

Six months have lapsed and the Police Department conducted an inspection to re-evaluate the need for two security guards. The Crime Analysis Unit monitored the calls for service and found that there were only two incidents in the parking lot and that they did not involve the business. Since the number of calls for service has dramatically decreased and the business has met the conditions of approval imposed by the Police Department, they recommend modifying the conditions of approval to require only one security guard on Friday and Saturday between the hours of 7:00 pm and closing. The request includes a provision for the Police Department to re-evaluate the need for an additional security guard after a 6-month period if an increase in police response and unlawful activity should occur.

Mr. Lee has met all conditions of approval that relate to the operation of the Hayward Music Studio. However, there are two unmet conditions of approval that relate to the operation of the shopping center. Staff has contacted the property manager and owner's representative, Michael Ahern of MW Associates, regarding the following unmet conditions of approval:

The property owner/applicant shall maintain in good repair all building exteriors, awnings, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. All weeds shall be removed. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.

All unused sign supports and sign cabinets shall be removed from the Mission Plaza Center.

Mr. Ahern has assured staff that all weeds, graffiti, and unused sign cabinets and sign supports will be removed by July 20, 1999.

Environmental Review

Pursuant to Section 15301, Class 1, Existing Facilities, of the California Environmental Quality Act (CEQA) Guidelines, the proposed project is categorically exempt from environmental review.

Public Notice

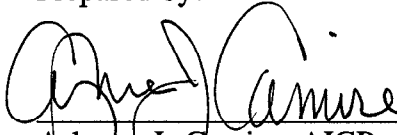
On June 25, 1999, a notice of public hearing was mailed to every property owner and occupant as noted on the latest assessor's records within 300 feet of the property. Staff received one letter in opposition from the owner of several residential properties. The property owner is opposed to the continuance of the business because it contributes to the undesirable elements that drive out good tenants and negatively effect residential property values (Attachment D.)

Conclusion


Since the applicant has met all conditions of approval regarding the operation of Hayward Music Studio and staff is working with the property manager to meet the property maintenance

conditions of approval by July 20, 1999, staff recommends that the applicant be allowed to operate with one security guard and that the Police Department review the use permit after an additional 6 months if unlawful activity should occur.

Prepared by:

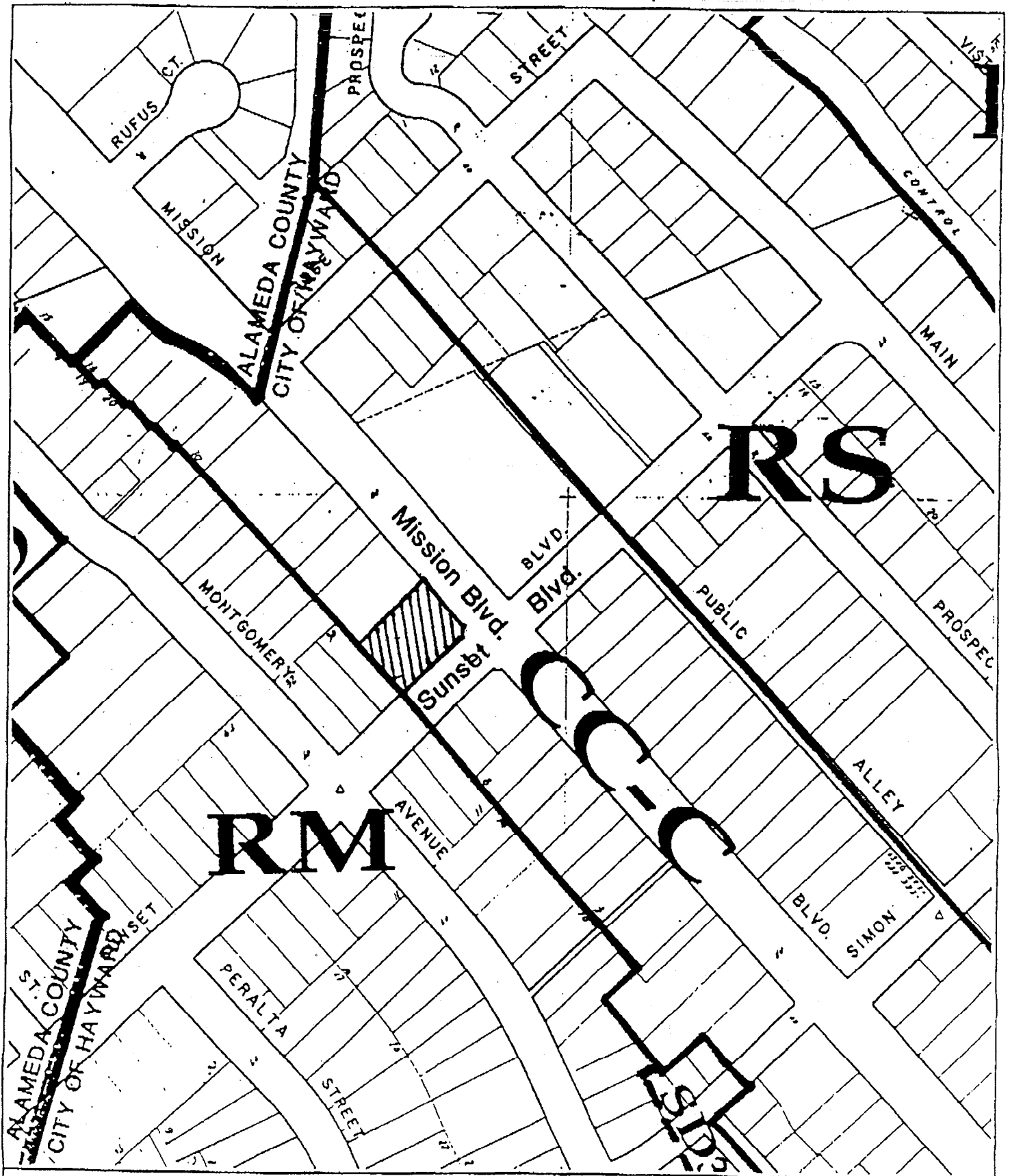

Arlynne J. Camire, AICP
Associate Planner

Recommended by:


Dyana Anderly, AICP
Planning Manager

Attachments:

- A Area Map
- B Planning Commission Minutes dated January 14, 1999
- C City Council Minutes Dated February 10, 1999
- D Letter in opposition dated June 28, 1999
- E Findings for Approval
- F Modified Conditions of Approval




ZONING/AREA MAP ■ AUP 98-160-19

Jung Lee/Hayward Music Studio (Applicant)
Douglas Storm/Mission Properties c/o Mike Ahern (Owner)
21995 Mission Blvd.

Family Residential District.

3. **USE PERMIT APPLICATION NO. 98-150-22 - LIFE CHIROPRACTIC COLLEGE (APPLICANT)** - Request to establish a chiropractic college and ancillary clinic within an existing 188,570-square-foot industrial building. The project location is 25001 Industrial Boulevard at Depot Road and Clawiter Road in an Industrial District.

PUBLIC HEARINGS

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1. **USE PERMIT APPLICATION NO. 98-160-19 - HAYWARD MUSIC STUDIO (JUNG LEE/APPLICANT)** - Request to permit an existing 3600-square-foot karaoke recording studio and adjoining bar (beer only) as a commercial amusement facility. The property is located within the Mission Plaza Center at 21995 Mission Boulevard on the northwest corner of Mission and Sunset Boulevards in the Central City-Commercial Subdistrict.

Associate Planner Camire described the application and the conditions of approval, many of which focused on security. She indicated that, although the parking lot has access from Montgomery or Mission, the Montgomery access would be closed from 10 p.m. to 8 a.m. daily. She added that two security guards would be required for Friday and Saturday nights as well as metal detectors at the door. She then answered questions from Commissioners.

Commissioner Halliday asked how long they had been licensed and was told that they were first issued a business license as a music practice studio in February 1993.

Chairperson Williams asked why the police would be reviewing the application in 6 months, whereas the Commission won't review it for a year.

Associate Planner Camire indicated that it was at the will of the Commission; if they would like to review the application sooner, they could stipulate that in their motion.

Chairperson Williams opened the public hearing at 7:56 p.m.

Jee Soo Kim, 305 Kittyhawk #308, Alameda, 94501, spoke for the applicant to appeal the condition of hiring 2 private security guards. He indicated that Mr. Lee does not do enough business to incur the cost of hiring 2 guards. It would be a fiscal hardship. He said that having them work from 6 p.m. would be a waste of time since the business does not really get started until 10 p.m. He also appealed the condition requiring a metal search detector saying it was a family establishment and this might discourage people from coming to the Club.

Lt. Fred Hoover, Hayward Police Department, said that since the club opened in 1993, the police have responded to 33 calls; on March 15, 1998, 5 people were shot in the parking lot. He also indicated that Mr. Lee and his staff need assistance to make sure the business is run in a safe manner. He added that the establishment has a restricted [beer only] license in the bar and there is no alcohol allowed in the studio. He said that Mr. Lee did not feel it was necessary to have a security guard on Sunday since business is much slower that day. As a result they are only requiring security guards on Fridays and Saturdays and they will review the application after six-months.

Public Hearing Closed at 8:13 p.m.

Commissioner Caveglia expressed concern over the 33 police calls and moved, seconded by Commissioner Bennett, the staff recommendation.

Commissioner Bennett said she would support the motion and suggested that Mr. Lee look at ways to reduce the police calls to his business.

Chairperson Williams agreed.

The motion passed 5:0.

2. **MODIFICATION OF THE CONDITIONS OF APPROVAL FOR PARCEL MAP 6705 - CAROL FOSTER (APPLICANT/OWNER)** - Request to remove conditions No. 3 and 4 to allow Parcel 1 direct access to Grandview Avenue. Prior approval required access through an easement on the adjacent property. The property is located at 26986 Grandview Avenue, east side, approximately 600 feet north of Cotati Street in a Single-Family Residential District.

Developmental Review Services Engineer Anastas gave an over-view of the conditions regarding the drive-way on Grandview.

Public Hearing Opened and Closed at 8:24 p.m. with no input from the public.

Commissioner Bennett moved, seconded by Commissioner Fish, the staff recommendation, adding that it seemed like a reasonable request.

Commissioner Caveglia asked for a friendly amendment to delete the curb and gutter requirement since the neighborhood has said specifically that they do not want either. Both the maker and seconder agreed to the amendment.

The motion passed 6:0. Commissioner Fish then stepped down from the dais for the next item.

3. **USE PERMIT APPLICATION NO. 98-150-22 - LIFE CHIROPRACTIC COLLEGE (APPLICANT)** - Request to establish a chiropractic college and ancillary clinic within an existing 188,570-square-foot industrial building. The project location is 25001 Industrial Boulevard at Depot Road and Clawiter Road in an Industrial District.

CED Director Ehrenthal made the staff report and asked Commissioners to focus on the appropriateness of Life College for this particular site. She described the Industrial area and zoning and indicated that this was not consistent with the intent of the Zoning and General Plan. She suggested some alternate uses for the site more in alignment with the City's plans for the area. She then said staff recommended denial of the application.

Commissioner Caveglia asked where, if not there, could they build.

CED Director Ehrenthal responded that they might be better suited to the downtown area where public transportation would be more accessible. She then responded to further questions from Commissioners.

2. Approval of Resolution Authorizing Local Matching Funds for Federal TEA-21 Projects

Staff report submitted by Deputy Director of Public Works Bauman, dated February 9, 1999, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 99-022, "Resolution Authorizing a Grant Application to the Metropolitan Transportation Commission for Fiscal Years 1998-99 and 1999-00"

HEARINGS

- ➡ 3. Appeal of Planning Commission's Action to Impose a Requirement for Security Guards as a Condition of Approval of Use Permit No. 98-160-19 - Jung Lee for Hayward Music Studio (Applicant), Douglas B. Storm for Mission Properties (Owner) - Property Located at 21995 Mission Boulevard

Staff report submitted by Associate Planner Camire, for February 9, 1999, was filed.

Development Review Services Administrator Anderly made the staff presentation noting that the applicant had submitted an appeal on the condition of approvals requiring two security guards. She noted that the owner had also submitted a petition with approximately 100 signatures in favor of maintaining the music studio. She responded to Council questions relating to permit revocation. Deputy Police Chief Trimble responded to Council questions regarding police responses for 33 calls to the studio and the issue of private security guard assistance. Deputy Police Chief Trimble enumerated the various police calls and citations issued.

Mayor Cooper opened the public hearing at 8:22 p.m.

Lynn Gorelick-Levine, 24301 Southland Drive, #620, Attorney, spoke on behalf of Mr. Lee and noted that Mr. Lee has installed security cameras in his establishment. She reported that Mr. Lee has offered full cooperation with the police in the past. She described his procedures in prohibiting alcohol on the premises. She presented Mr. Lee's recommendation to have one private security guard on the premises from 10 p.m. until 3 a.m. on Friday and Saturday nights. He could not afford to have two guards on nights when business is slow. She suggested that part of the 33 calls might have been generated at the time of a major incident that occurred over one year ago.

Mr. Lee spoke on his own behalf and indicated that after six years in the business, he recognizes his customers and has requested searches be conducted on certain unwelcome customers.



**MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL OF THE CITY OF HAYWARD**
City Council Chambers 777 B Street
Hayward, California 94541
Tuesday, February 9, 1999, 8:00 p.m.

Council Member Rodriquez inquired on the petition that was submitted, and asked how Mr. Lee promotes his business.

Jason Moreno, 25200 Carlos Bee Boulevard, asked whether police overtime was involved in relation to this establishment and whether neighbors in that area were contacted on this matter.

Development Review Services Administrator Anderly described the method of notification and hearing processes and provided neighborhood responses that were submitted on this matter.

Deputy Police Chief Trimble noted that, although no overtime has been used, more than sufficient time and police staff have been required at this establishment.

Mayor Cooper closed the public hearing at 8:51 p.m.

Council Member Henson moved to uphold the Planning Commission decision and deny the appeal as staff recommended to employ two security guards in addition, he wanted the conditions to include also requiring the security cameras to remain in place, even with the addition of guards.

It was moved by Council Member Henson, seconded by Council Member Hilson, and unanimously carried by all present, to approve the following:

Resolution 99-023, "Resolution Denying Applicant's Appeal of a Condition of Approval Requiring Security Guards in Connection with Conditional Use Permit Application 98-160-19"

LEGISLATIVE BUSINESS

4. Vesting Tentative Map 7044 and Site Plan Review No. 98-130-10 - Passport Homes, Inc. (Applicant), Tom & Helga Barras (Owners) - Request to Subdivide Three Parcels Totaling 1.92 Acres into 12 Parcels, Request Approval of Site and Architectural Plans, and Summary Vacation of Excess Right-of-Way - Property Located at 24912, 24918 and 24924 Mohr Drive

Staff report submitted by Senior Planner McClellan, dated February 9, 1999, was filed.

Development Review Services Administrator Anderly made the staff presentation and recommendation and responded to questions.

Mayor Cooper opened the public hearing at 8:59 p.m.

Council Member Hilson, as Chair of the City's Environmental Committee, asked the applicant if

DRAFT



VOGEL ASSOCIATES

MEDICAL SERVICE

• RESEARCH

• FINANCE

• ADMINISTRATION

William O. Vogel, M.A.
Marta K. Vogel, R.N.

3308 Oakes Drive
Hayward, CA 94542-1240

Phone (510) 538-6761
FAX (510) 881-2857

June 28, 1999

Arlynne J. Camire
Associate Planner
City of Hayward
Planning Division
777 B Street
Hayward, CA 94541-5007

Dear Ms. Camire:

Re: Use Permit Application #98-160-19

I continue my strong opposition to the proposed use of the property at 21995 Mission Boulevard as a karaoke recording studio and bar.

As I stated in my 2/1/99 letter to you regarding the above, I am the owner of the properties at 22070/22072 Montgomery and 810 Sunset. My tenants are uniform in their opposition to the proposed use of the property at 21995 Mission Boulevard.

I have invested considerable funds in maintaining and improving the property for my tenants in each of these properties. They in turn, have been fine caring tenants.

The only complaint they have is the disruptive element that comes from Mission Boulevard.

There has been property breaking and entering and loitering by inebriated, drug abusing, loud, combative individuals on the private lawns and porches of my tenants. The tenants have requested and I have provided funds for more secure locks and doors.

The Hayward Police are well aware of the problems that exist along this part of Mission Boulevard and the spillover to the immediate, surrounding neighborhood.

The last thing needed, in the laudable effort of Hayward, to "turn around" that part of Hayward, is a business that will potentially attract the element that disturbs my tenants and is of concern to the Hayward Police.

As previously stated, if the "strip mall" milieu continues in this area, it is inevitable that Gresham's law of Real Estate will prevail and effect the surrounding properties.

That law posits that undesirable elements drive out good tenants and lower property values.

Sincerely,

William O. Vogel
William O. Vogel

RECEIVED
JUL 01 1999
CITY OF HAYWARD PLANNING DIVISION

ATTACHMENT D

FINDINGS FOR APPROVAL
Use Permit Application No. 98-160-19
21995 Mission Boulevard
Jung Lee for Hayward Music Studio (Applicant)
Douglas B. Storm for Mission Properties (Owner)

Based on the staff report and the public record:

- A. That the karaoke recording studio and bar is desirable for the public convenience or welfare in that it carries out the City's intent to promote the development of the downtown area as the central area of the city for business, governmental, cultural, financial, residential, office and entertainment uses;
- B. That the karaoke recording studio and bar will not impair the character and integrity of the neighborhood in that it is located entirely within an existing building and conditions will be imposed to mitigate any foreseen adverse impacts;
- C. That the karaoke recording studio and bar will not be detrimental to the public health, safety or general welfare in that all building and fire code requirements will be met; and;
- D. That the karaoke recording studio and bar is in harmony with applicable City policies as well as the intent and purpose of the zoning district in that the use will be compatible with commercial activity and provides a desirable working environment with a minimum of detriment to surrounding properties.

MODIFIED CONDITIONS OF APPROVAL
Use Permit Application No. 98-160-19
21995 Mission Boulevard
Jung Lee for Hayward Music Studio (Applicant)
Douglas B. Storm for Mission Properties (Owner)

General

1. This Use Permit Application No. 98-160-19, to allow the operation of a karaoke recording studio and bar, shall be operated according to the plans approved by the City Council on February 9, 1999, labeled Exhibit "A" and these conditions of approval.
2. This approval is to be reviewed by the Planning Commission after 6 months of operation after the effective date of approval if determined to be necessary by the Police Department. Any modification to the approved plans or conditions shall require review and approval by the Director of Community and Economic Development/Planning Director and the Police Department.
3. All pertinent conditions of approval and all improvements and operating procedures pertaining to the serving of alcoholic beverages, interior and exterior lighting and security shall be completed to the satisfaction of the Director of Community and Economic Development/Planning Director and the Police Department.
4. The property owner/~~applicant~~ shall maintain in good repair all building exteriors, awnings, walls, lighting, trash enclosure, drainage facilities, driveways and parking areas. All weeds shall be removed. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.

Building

5. Any building improvements shall comply with all applicable currently adopted codes and ordinance including UBC, UPC, UMC, NEC, Title 24 energy code, and all Hayward building code amendments and ordinances.
6. The maximum occupancy level for the premises shall not be exceeded.

Police Department Requirements

7. The property owner/applicant shall ~~install and~~ maintain lighting that meets the City of Hayward Security Ordinance and shall be approved by the Police Department.

8. The applicant shall maintain the existing interior lighting for the studio which is adequate for the illumination and protection of the premises and which allows the unaided inspection of personal identification by members of the Hayward Police Department. Any changes of interior lighting shall be approved by the Hayward Police Department.
9. The applicant shall discourage patrons and visitors from loitering in the parking lot and in front of adjacent businesses. No Loitering signs, which are to the satisfaction of the Hayward Police Department shall be posted and maintained.
10. The violation, by the applicant or any employee of the Hayward Music Studio, of any rule or regulation issued by the Department of Alcohol and Beverage Control or any law concerning the sale and distribution of alcohol shall be grounds for use permit revocation.
11. Conviction by the permittee or any employee of the permittee for any criminal offense committed at the establishment shall be grounds for use permit revocation.
12. Consumption of alcoholic beverages shall be limited to the bar area. No alcoholic beverages are permitted in the recording studio rooms. Conspicuous signage indicating such must be posted at each individual studio. Lack of enforcement of this condition shall be grounds for use permit revocation.
13. The applicant shall prominently post signs inside the premises and adjacent to each entrance/exit door(s) stating that consumption of alcoholic beverages in public is prohibited by law pursuant to Section 4-2.10 of the Hayward Municipal Code. Signs shall be to the satisfaction of the Hayward Police Department.
14. The applicant shall be responsible for the maintenance of the peace to ensure order on the property. The applicant shall take all necessary steps to ensure that patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community and therefore, become an increased burden on the limited resources of the Police Department.
15. *One private security guard shall be employed and on the premises Friday and Saturday between the hours of 7:00 pm and closing. The security guard is to be to the satisfaction of the Hayward Police Department. In addition, the Hayward Police Department will evaluate the requirement for two security guards after period of six months.*

16. The security guard shall be responsible for observing all persons entering the business as well as the parking lot in front of the business. The security shall also be responsible to monitor the video security system that includes cameras in the larger studio rooms; 7, 8, 9, and 11 (see Exhibit A.) Any illegal or suspicious activity shall be reported to the Hayward Police immediately.
17. The security guard shall utilize a Police Department approved metal detector to search all persons entering the premises, including any bags, packages or parcels. Employees shall be required to undergo a metal detector search.
18. The hours of operation for the business shall be limited to:
 - (a) Bar-7:00 pm to 2:00 am, 7 days a week
 - (b) Karaoke Studio-5:00 pm to 2:00 am, (Sunday-Thursday) and 5:00 pm to 4:00 am (Friday-Saturday).

Site Improvements

- ~~19. *All unused sign supports and sign cabinets shall be removed from the Mission Plaza Center.*~~
19. The parking lot entrance located on Montgomery Street shall be chained-off to prevent parking lot access after 10:00 pm or before 8:00 am 7 days a week.
20. A sign permit is required for all signs. All signs shall conform to the Sign Ordinance and shall be approved by the Director of Community and Economic Development/Planning Director.
21. All business within the Mission Plaza Center shall have addresses that are clearly displayed and meet the requirements of the Security Ordinance.
22. Violation of these conditions is cause for revocation of permit after public hearing before the duly authorized review body.
23. If problems occur as a result of the operation of the karaoke recording studio and bar, the Director of Community and Economic Development/Planning Director will schedule this use permit on the agenda of the Planning Commission for modification of these conditions to mitigate negative impacts or revocation of the use permit.